IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1285 of 2007

Lawrence alias Gopi .. Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai-9.

2. The Commissioner of Police
Greater Chennai
Chennai. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus to call for the entire records, related to petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 16.07.2007 on the file of the second respondent herein made in proceedings No.329/2007, quash the same as illegal and consequently direct the respondents to produce the Petitioner namely Lawrence (a) Gopi before this Hon'ble High Court and set him at liberty from detention, now detained in Central Prison, Puzhal, Chennai-600 066.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

Challenging the order of detention dated 16.7.2007 made in No.329/2007, passed by the second respondent branding the petitioner as a 'Goonda' under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Act 14 of 1982), the petitioner, who is now confined in Central Prison, Puzhal, Chennai, has filed this Habeas Corpus Petition to set aside the order of detention and to direct the respondents to produce him before this Court and set him at liberty.

2. The ground case based on which the impugned order of detention has been passed is that on 20.6.2007 at about 1800 hours, when one Sathiyamoorthy, the complainant was returning in his cycle, at the junction of Ambattur Estate Main Road and Second Cross Road, the detenu wrongfully restrained him and threatened him to handover the money, when the complainant questioned, the detenu took out a knife and rushed to cut him. The detenu took away Rs.380/- and also robbed the gold ring and wristwatch. When the complainant raised hue and cry, the public came to his rescue, but the detenu brandished knife and threatened to kill them and further picked up cool drink bottles and hurled the same against them. The public noticing the atrocious activities of the detenu ran for safer places out of fear of danger to their lives. The police personnel, who came to the spot, noticed and surrounded the detenu and apprehended him. Based on the complaint given by the complainant, a case in Crime No.363 of 2007 was registered for offences punishable under Sections 341, 336, 427, 397 and 506(2) I.P.C.

3. Taking into consideration the above said ground case as well as seven adverse cases, viz., Crime No.383 of 2007 on the file of Pondy Bazar Police Station for the offence under Section 379 IPC; Crime Nos.217, 292 337 and 359 of 2007 on the file of Ambattur Estate Police Station for the offence under Section 379, 380, 341 and 392 IPC; Crime No.790 of 2007 on the file of Virugambakkam Police Station for the offence under Section 457 and 380 IPC; and Crime No.837 of 2007 on the file of SRMS Police Station for the offence under Section 457 and 380 IPC, the second respondent/detaining authority having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

4. The main contention of the learned counsel for the petitioner is that even though in the request for remand a reference was made to all eight crimes, viz., one ground case and seven adverse cases, referred to above, the details of remand only with respect to Crime Nos.359 and 363 of 2007 were furnished and the particulars as to the remand in other crimes were not furnished and therefore, the order of detention is vitiated.

5. We heard Mr.N.R.Elango, learned Additional Public Prosecutor. We have perused the entire materials placed before us.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

6. A perusal of the grounds of detention shows that the detenu was remanded Crime Nos.359 and 363 of 2007. However, in the remand request, reference is made to all the eight crimes registered against the detenu, referred to above. The detaining authority, however, did not furnish the remand particulars with regard to the other six crimes registered against the detenu. In our considered opinion, the non-furnishing the order of remand to the detenu vitiates the order of detention.

For the reasons aforesaid, the impugned order of detention is liable to be set aside and accordingly, the same is set aside. This petition is allowed. The order of detention dated 16.7.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his presence is required connection with in any other crime. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sasi

To:

1. The Secretary to Government
   State of Tamilnadu
   Prohibition and Excise Department
   Fort St.George, Chennai-9.

2. The Commissioner of Police
   Greater Chennai
   Chennai.

3. The Superintendent
Central Prison,
Puzhal, Chennai-66.

4. The Public Prosecutor
High Court, Madras.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

5. The Joint Secretary to Government
Public (Law and order) Department
Fort. St. George, Chennai-9.

H.C.P.No.1285 of 2007

BVR (CO)
kk 6/12

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/